

**REMARKS**

Claims 1, 5, 7, 16, 17, 21, 23, 32, and 33 are pending in this application.

Applicants have amended claims 1, 16, 17, 32, and 33, and have canceled claims 2 and 18 herein. In addition, Applicants have made minor changes to the specification. These changes do not introduce any new matter.

**Rejection Under 35 U.S.C. § 101**

Applicants respectfully request reconsideration of the rejection of claim 33 under 35 U.S.C. § 101 as being directed toward non-statutory subject matter. In support of the section 101 rejection, the Examiner notes that the specification refers to a data signal embedded in a carrier wave containing a computer program. In response, Applicants note that claim 33 defines a computer-readable *storage* medium having a computer program stored thereon. Applicants respectfully submit that the phrase “computer-readable storage medium” does not encompass a data signal embedded in a carrier wave. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have amended the specification to remove the reference to a data signal embedded in a carrier wave containing a computer program. As such, claim 33 defines statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicants request that the rejection of claim 33 under 35 U.S.C. § 101 be withdrawn.

**Rejection Under 35 U.S.C. § 103**

Applicants respectfully request reconsideration of the rejection of claims 1, 2, 5, 7, 16-18, 21, 23, 32, and 33 under 35 U.S.C. § 103(a) as being unpatentable over *Loui et al.* (“*Loui*”) (US 6,636,648 B2) in view of *Savakis et al.* (“*Savakis*”) (US 6,535,636 B1) and *Kuwata et al.* (“*Kuwata*”) (US 6,392,759 B1) (as noted above, claims 2 and 18 have been canceled). As will be explained in more detail below, the combination of *Loui* in view of *Savakis* and *Kuwata* would not have rendered the subject matter defined in independent

claims 1, 16, 17, 32, and 33, as amended herein, obvious to one having ordinary skill in the art.

Applicants have amended each of independent claims 1, 16, 17, 32, and 33 to recite additional features that distinguish the presently claimed subject matter from that shown in the applied references. Support for the features added to the claims can be found in Applicants' specification at, for example, Paragraphs [0097], [0104], and [0105], and Figures 22(a), 22(b1), 22(b2), 22(c1), 22(c2), and 22(d).

In formulating the obviousness rejection, the Examiner acknowledges that "Loui fails to teach the edge amounts are weighted by a weight distribution that is determined according to the image generation record information." Office Action at page 4.

To remedy the acknowledged deficiency of *Loui*, the Examiner asserts that *Kuwata* teaches the weighted edge amount feature. In this regard, in column 15, lines 1-25, *Kuwata* teaches that in summing edge amounts, the weight increases as the edge amount increases as shown in Figure 21.

In the presently claimed subject matter, however, the weight distribution does not depend on the edge amount as shown in the *Kuwata* reference. Instead, the claimed weight distribution is determined independently of the edge amount.

If the weight increases as the edge amount increases as taught in the *Kuwata* reference, in the case of IMG19b (see Figure 19(b) of the subject application), for example, the weight of the sharp outline of the "tree" increases, and the resultant weight distribution is quite different from that of weight W1 shown in Figures 22(b1) and 22(c1) of the subject application. To be more specific, while the weight near the position of a photographic subject increases in the subject application, the weight of a sharp image increases regardless of the subject position in the case of *Kuwata*.

As such, for at least the foregoing reasons, the weighting taught in the *Kuwata* reference is significantly different from the weighting specified in the presently claimed subject matter.

Moreover, the presently claimed weight distribution includes a first weight (referred to as “W1” in the specification) that is constant in the area (“A3”) in accordance with the position of a photographic subject, and the presently claimed configuration uses a first average value (“EWave”) of the edge amounts weighted by the weight distribution to select an output target. In selecting the output target, the presently claimed configuration compares a threshold value, which is a second average value of edge amounts of the entire image calculated using a second weight (“W2”) that is constant throughout the image, with the first average value. None of the applied references discloses or suggests such an operation.

With the above-noted operation, the presently claimed configuration is capable of attaining the following advantageous effect, as stated in Paragraph [0105] of the subject application:

The threshold value EWth...assumes a different value for each image data, and is a value determined by sharpness of the overall image. Thus, the output target decision for image data generated under various conditions can be executed more appropriately for the particular image data.

Thus, for at least the foregoing reasons, even if the *Loui*, *Savakis*, and *Kuwata* references were to be combined in the manner proposed by the Examiner, the result of this combination would not have included each and every feature of the subject matter defined in present claims 1, 16, 17, 32, and 33. As such, the combination of *Loui* in view of *Savakis* and *Kuwata* would not have rendered the subject matter defined in present claims 1, 16, 17, 32, and 33 obvious to one having ordinary skill in the art.

Accordingly, independent claims 1, 16, 17, 32, and 33, as amended herein, are patentable under 35 U.S.C. § 103(a) over the combination of *Loui* in view of *Savakis* and *Kuwata*. Claims 5 and 7, each of which ultimately depends from claim 1, and claims 21 and

23, each of which ultimately depends from claim 17, are likewise patentable under 35 U.S.C. § 103(a) over the combination of *Loui* in view of *Savakis* and *Kuwata* for at least the same reasons set forth above with regard to claims 1 and 17, respectively.

Conclusion

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 1, 5, 7, 16, 17, 21, 23, 32, and 33, as amended herein, and submit that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at **(408) 749-6902**. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP056).

Respectfully submitted,  
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